



Office of Democratic Leader Nancy Pelosi

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Energy Policy Conference Report (H.R. 6)

Later today, the House GOP leadership is rushing to the House Floor the conference report on H.R. 6, the Energy Policy Act of 2003, despite the fact that the conference report was not filed until about 3 a.m. this morning. Democrats have been completely shut out in the writing of the energy conference report. This conference report was written behind closed doors – and was written almost exclusively by Rep. Billy Tauzin, Chairman of the House Energy and Commerce Committee, and Sen. Pete Domenici, Chairman of the Senate Energy and Natural Resources Committee.

The Republican conference report – which began nearly three years ago under the shroud of secrecy in Vice President Cheney's Task Force and culminated in closed-door conference sessions – has now finally seen the light of day.

The final GOP conference report is disappointing to many Democrats who believe that Republicans missed a golden opportunity to move forward with a national energy policy that balances our need to conserve energy, increase domestic supplies, invest in alternative energy, and maintain the environment for future generations. Many Democrats also see the final bill as containing an extraordinarily long list of special-interest provisions for energy industries – including tax breaks, grants, liability shields, and reduced royalties they have to pay for extracting resources from public lands.

Following is a partial list of some of the controversial provisions contained in the final energy conference report. The legislation:

- ! **Amends the Clean Air Act to allow certain areas to ignore ozone attainment deadlines.** (Sec. 1443) The Clean Air Act currently allows cities with the dirtiest air to have more time for cleanup if they agree to install stronger, more effective air pollution controls. Under the bill, these cities will have more time to meet ozone standards but without any requirement to install stronger pollution controls. This means that children and families who live in these communities could suffer more asthma attacks and more respiratory illnesses.

- ! **Bars the Environmental Protection Agency from protecting drinking water supplies by regulating companies that inject diesel for purposes of oil and gas recovery.** (Sec. 327) This process, known as hydraulic fracturing, is championed by Halliburton. To extract oil and gas in hard-to-get places, energy companies inject diesel fuel, hydrochloric acid, or other substances into the ground. Many communities have been concerned about the impact on their underground water supplies. EPA has studied the issue and recommended that industry stop injecting diesel fuel

into the ground. This EPA recommendation is overturned in the final bill.

- ! **Exempts construction at oil and gas company sites from rules on waste water runoff designed to protect our lakes, rivers, and streams.** (Sec. 328) This provision is an end-run around one of the nation's most successful environmental laws, the Clean Water Act, making oil and gas company construction the only construction activity not subject to the Act's requirements. Construction at existing oil and gas facilities should be particularly worrisome since these sites routinely handle hazardous fluids.
- ! **Provides a special retroactive liability waiver for MTBE producers who face lawsuits from states and localities for polluting their water supplies, thereby shifting cleanup costs to taxpayers.** (Sec. 1502) MTBE is a gasoline additive that helps make gas burn cleaner and reduces air pollution. Widely used for decades, it has also become a suspected carcinogen that can contaminate groundwater and surface water. The U.S. Conference of Mayors estimates the cost of cleaning up MBTE contamination nationwide is \$29 billion and growing.
- ! **Permits the Department of Energy to site lines through National parks and monuments.** (Sec. 1221) This GOP bill would permit the Department of Energy to site transmission lines through many pristine areas of the country – including parts of the National Park system, the National Wilderness Preservation System, and the National Wild and Scenic Rivers system.
- ! **Revises Federal Coal Lease provisions to benefit coal companies operating on public lands in the West, primarily in the Powder River Basin in Wyoming.** (Subtitle C of Title IV) These anti-competitive and anti-consumer provisions would allow western coal companies to monopolize public lands and resources by allowing the size of coal leases to be expanded without competitive bidding and relieving them of paying royalties owed to the American taxpayer. The provisions will create a federal coal producing monopoly in the West to the detriment of coal producers and coal labor in the Appalachian and MidWestern States.
- ! **Restricts the rights of States to review and respond to Federal decisions concerning the management of coastal waters, including oil and gas leasing and development.** (Section 325) The provision imposes a 120-day deadline for the Commerce Secretary to rule on any appeal of a coastal state's "consistency determination." If the Secretary does not make a determination within this time, the proposed oil and gas development is automatically approved. This process does not allow enough time to conduct negotiations or to develop a complete record for an appeals process, virtually assuring even more litigation as states seek to protect their coastal resources and economies.
- ! **Promotes nuclear proliferation by reversing long-standing U.S. nuclear policy against reprocessing waste from commercial nuclear reactors, and using plutonium to generate commercial energy.** (Sec. 926). The final bill also includes a new tax credit for electricity produced from nuclear fuel facilities (costing \$167 million), and \$6 billion in tax breaks to encourage development of new nuclear reactors.

- ! **Restricts the application of certain environmental laws, including the National Environmental Policy Act (NEPA), for new energy projects on Indian tribal lands.** (Title V) Provides a process through which Indian tribes would be authorized to enter into leases, rights-of-way agreements, and certain business agreements after a general energy management plan is approved by the Secretary of Interior. The language has been written to encourage and facilitate construction of large oil refineries and processing facilities on Indian lands.
- ! **Repeals the Public Utility Holding Company Act (PUHCA), which is designed to protect ratepayers from paying for risky investments by utility holding companies and to protect investors from shady corporate accounting practices.** (Sec 1263) Repealing the law without providing adequate consumer protections will mean further industry mergers, more deregulation, and non-transparent corporate structures that leave consumers and investors at the mercy of giant companies.
- ! **Fails to include important anti-fraud provisions to bar the kind of schemes like “Death Star” used by Enron and others in the Western electricity crisis to bilk consumers of billions of dollars.** These provisions, which Democrats unsuccessfully offered as a substitute to the electricity title during the House consideration of the energy bill, were adopted by a Senate vote of 57-40. They would have provided the kind of fundamental reform needed to take action against fraud and help prevent the market manipulation and abuse of West Coast markets that took place in 2000 and 2001. And yet these provisions are not included in the final conference report.
- ! **Gives tax subsidies of \$23.5 billion to energy industries, including \$11.9 billion for oil and gas companies.** There are no offsets for the cost of these enormous subsidies to energy industries, at the same time Republicans are calling for offsets to pay for veterans medical care and other priorities in other bills.
- ! **Contains a long list of unwarranted subsidies for oil and gas companies operating on public lands and in coastal waters under the aegis of “Production Incentives.”** (Subtitle B of Title III) Although there is no CBO cost estimate on the conference report, the House-passed oil and gas incentives were previously estimated by CBO to reduce Federal revenues by \$383 million over ten years. Among the more egregious provisions are: provisions codifying “royalties in kind”, authority which GAO has criticized for its potential to reduce Federal revenues (Sec. 312), and provisions that provide “deep well” and “deep water” royalty holidays for oil and gas operations in the Gulf of Mexico (Secs. 314 and 315).
- ! **Includes billions in new subsidies for pork projects in Alaska, hydropower, and nuclear energy at a time of increasing federal budget deficits.**
- ! **Establishes new and costly precedent under the National Environmental Policy Act by authorizing the Interior Secretary to reimburse oil and gas companies for the costs of undertaking environmental impact analyses relating to oil and gas leasing.** (Sec. 326) CBO estimates that this provision, in combination with a similar provision for geothermal, would cost \$165 million over the next decade.